



JUL 10 2006

BY REGISTERED MAIL

La Société Kalev d'Assistance bénévole Enr –
Kalev Free Loan & Aid Society
1085 St-Alexandre Street, Suite 400
Montréal, Québec H2Z 1P4

Attention: Mr. Moses Samet

BN: 11915 3971 RR0001

File #: 0504753

SUBJECT: Notice of Intent to Revoke
La Société Kalev d'Assistance bénévole Enr. –
Kalev Free Loan & Aid Society

Dear Mr. Samet:

I am writing further to our letter dated September 19, 2005 (copy attached) and our telephone conversation with your representative, Mr. Fred Pfeiffer of Dr. Julius Pfeiffer & Sons Chartered Accountants, of January 13, 2006, in which you were invited to submit representations as to why the Minister of National Revenue should not revoke the registration of La Société Kalev d'Assistance bénévole Enr. – Kalev Free Loan & Aid Society (hereinafter, the "Organization") in accordance with subsection 168(1) of the *Income Tax Act* (hereinafter, the "Act").

We have reviewed your written response of November 21, 2005 (copy attached); you will find our comments in Appendix "A" attached.

Conclusion

After careful review of the representations included in your letter of November 21, 2005 and our telephone conversation of January 13, 2006 with Mr. Fred Pfeiffer, it is our conclusion that sufficient reasons have not been provided as to why the Organization's status as a registered charity should not be revoked. The Organization failed to maintain control and accountability over its funds transferred to Israel as the stipulations of the Agency Agreement between Mordechai Weiss and Aaron Samet were not implemented, and it failed to establish the criteria necessary to ascertain the loan recipients were needy. An audit of fiscal period December 31, 1996 also revealed these areas of non-compliance; however, the Organization failed to take the necessary actions to resolve these issues.

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We conclude that, for each of the reasons outlined in our letter dated September 19, 2005, the Organization does not meet the requirements of a charitable organization under subsection 149.1(1) of the Act.

Therefore, I wish to advise you that, for each of the reasons outlined and pursuant to the authority granted to the Minister in subsection 168(1) of the Act, and delegated to me, I propose to revoke the registration of the Organization. By virtue of subsection 168(2) of the Act, the revocation will be effective on the date of publication in the *Canada Gazette* of the following notice:

Notice is hereby given, pursuant to paragraphs 168(1)(b), 168(1)(d) and 168(1)(e) of the Income Tax Act, that I propose to revoke the registration of the organization listed below and that the revocation of registration is effective on the date of publication of this notice.

File Number	Business Number	Name
0504753	11915 3971 RR0001	La Société Kalev d'Assistance bénévole Enr. - Kalev Free Loan & Aid Society Montréal, Québec

Should you wish to appeal this Notice of Intention to Revoke the Organization's registration in accordance with subsection 168(4) of the Act, you are advised to file a Notice of Objection within 90 days from the mailing of this letter. This notice is a written statement that sets out the reasons for the objection and all the relevant facts. The Notice of Objection should be sent to:

Tax and Charities Appeals Directorate
Appeals Branch
Canada Revenue Agency
25 Nicholas Street
Ottawa, ON K1A 0L5

Consequences of a Revocation

As of the date of revocation of the registration of the Organization, which is the date upon which the above-noted notice is published in the *Canada Gazette*, the Organization will no longer be exempt from Part I Tax as a registered charity and will no longer be permitted to issue official donation receipts.

Additionally, by virtue of section 188 of the Act, the Organization will be required to pay a tax within one year from the date of the Notice of Intention to Revoke the Charity's registration. This revocation tax is calculated on prescribed form T-2046, "Tax Return Where Registration of a Charity is Revoked". The return must be filed and the tax must be paid on or before the day that is one year from the

date of the Notice of Intention to Revoke a Charity's Registration. For your reference, I have attached a copy of the relevant provisions of the Act (Appendix "B") concerning revocation of registration and the tax applicable to revoked charities as well as appeals against revocation. Form T-2046, along with the related Guide RC-4424, "*Completing the Tax Return Where Registration of a Charity is Revoked*", are also attached for your information.

Furthermore, I wish to advise you that pursuant to subsection 150(1) of the Act, a return of income for each taxation year in the case of a corporation (other than a corporation that was a registered charity throughout the year) shall without notice or demand therefore, be filed with the Minister in prescribed form containing prescribed information.

Yours sincerely,



Elizabeth Tromp
Director General
Charities Directorate

Enclosures

- Appendix "A", Our comments on your letter of November 21, 2005
- Our letter dated September 19, 2005
- Your response dated November 21, 2005
- Appendix "B", Relevant provisions of the Act
- Form T-2046, "*Tax Return Where Registration of a Charity is Revoked*"
- RC-4424, "*Completing the Tax Return Where Registration of a Charity is Revoked*"

**La Société Kalev d'Assistance bénévole Enr –
Kalev Free Loan & Aid Society
Comments on your written response of November 21, 2005**

Lending Practices

The audit conducted by the Canada Revenue Agency (hereinafter, the "CRA") had identified that the Organization did not maintain adequate books and records to substantiate the provision of loans to needy persons. The Organization failed to provide supporting documentation to show that applicants receiving loans were needy, as the Organization failed to provide the specific criteria used by it to grant loans. The Organization's Agent forwarded a monthly statement to the Organization identifying the total amount of funding disbursed per program and copies of the loan application forms. According to the monthly statements, loans were granted for assisting Jewish students in Canada with interest free loans, assisting needy Jewish persons with medical and food expenses, assisting new mothers upon the birth of a child and assisting newly married couples acquire furnishings. The loan application forms that were provided failed to contain the necessary information that would have enabled us to ensure the loans were granted for charitable purposes. Board members' personal knowledge of the applicants does not constitute sufficient evidence that the applicants are needy nor that the loans were granted for charitable purposes. Assisting needy Jewish persons with medical and food expenses, assisting new mothers upon the birth of a child and assisting newly married couples acquire furnishings may be charitable; however, the Organization has an obligation, under the Act, of establishing that the persons were in fact needy.

An audit conducted for the fiscal period ending December 31, 1996 revealed that the Organization did not have written criteria for granting loans and the loan application forms did not contain sufficient details to determine if financial aid was reasonable. The results of the audit were communicated orally with the Organization's representative and it was understood the Organization would change the procedures of loan issuance and would request more information to support each loan granted according to written selection criteria. Our audit of fiscal period ending December 31, 2001 indicated that the Organization continued to receive monthly statements from the Agent identifying the total amount of funding disbursed per month by program type and copies of the loan application forms. The monthly statements and loan application forms contained the same insufficient details as was observed in the prior audit. The Organization failed to demonstrate that it had changed its loan issuing procedures and had requested information to support each loan granted according to written selection criteria.

Your representation of November 21, 2005 acknowledges that the informal approval process, based on the knowledge of facts, is insufficient. It also states that in the future, all details will be properly recorded and proper backup will exist to satisfy the CRA's concerns that there is no support for the reasonableness of the financial aid; however, the Organization failed to detail what form this backup will take. The Organization failed to detail the specific changes to be made to the loan application forms to ensure adequate details are obtained from an applicant as well as the backup documentation to be required to satisfy the loans were made to needy persons. The Organization also failed to specify the criteria that would be necessary to ascertain that loan recipients were needy and have received the loan proceeds.

Agency Agreements

The audit revealed that the Organization's foreign activities were not properly supported, as the Organization could not substantiate that it had control over the funds transferred to its Agents. The Organization has had Agency Agreements in place since July 4, 1987 with Mordechai Weiss and Aaron Samet (hereinafter, the "Agents") and with Zvi Steinberg (hereinafter, the "Transfer Agent") since March 9, 1998. However, the terms of both agreements were not implemented completely as the Agents failed to provide the documentation necessary to substantiate the Organization had control over the funds at all times.

When the Agent approved the application forms, he disbursed the loan amount in cash. Records to acknowledge a loan applicant's receipt of funds were not maintained. The statement received from the Agent, in conjunction with the loan application forms, does not constitute sufficient evidence that the persons actually received the loans. Additionally, the Organization failed to demonstrate control over its funds when the Organization engaged other persons travelling to Israel to deliver funds to the Agents, as there was no proof provided to verify that the Agents received the funds.

The audit conducted for the fiscal period ending December 31, 1996 also revealed that the Agency Agreement between Mr. Weiss and Mr. Samet was not respected as the Agents failed to provide the Organization with a duplicate set of books and records. It was understood that the Organization would request regular reports from its Agents as stipulated in clause 3 of the Agency Agreement as per the Organization's representative.

Our recent review revealed that the stipulations of the Agency Agreement were not implemented as the Organization failed to request or receive regular reports from its Agents. It is incumbent upon the Organization to show that they have properly implemented the agreement claimed to be in place. Although the agreements contained a provision for the Agents to provide duplicate books and records, including copies of all documentation used in their decisions to provide assistance to

an individual and a provision stipulating that the Organization will maintain full and complete direction, control and supervision of the application of the funds, the Organization did not enforce these provisions.

Your letter of November 21, 2005 states that the Organization entered into an Agency Agreement with Rabbi Zvi Steinberg on March 9, 1998 and your representative indicated during our telephone conversation of January 13, 2006 that the Agency Agreement would be revised to have the Agents provide annual reports. The Organization failed to indicate the criteria and the enforcement of said criteria by the Organization necessary to maintain control and accountability of the funds transferred to the Agents. Insisting that the Agent complete all the pertinent details on the loan application forms and provide an annual report does not provide assurance that the Agents are accountable for the use of the funds nor that the funds are controlled by the Organization.



REGISTERED MAIL

La Société Kalev d'Assistance bénévole Enr –
Kalev Free Loan & Aid Society
1085 St-Alexandre Street, Suite 400
Montréal, Québec H2Z 1P4

Attention: Mr. Moses Samet

BN: 11915 3971
File #: 0504753

November 19, 2007

Subject: Revocation of Registration
La Société Kalev d'Assistance bénévole Enr – Kalev Free Loan & Aid Society

Dear Mr. Samet:

The purpose of this letter is to inform you that on November 17, 2007, the effective date of revocation, a notice revoking the registration of La Société Kalev d'Assistance bénévole Enr – Kalev Free Loan & Aid Society (the "Organization") was published in the *Canada Gazette*. Effective on that date, the Organization ceased to be a registered charity.

As a result of the revocation of the Organization's registration, the Organization is no longer exempt from tax under Part I of the *Income Tax Act* (the "ITA") pursuant to section 149(1)(f) of the ITA as a registered charity. The consequences of the revocation of the Organization's registration are:

- 1) The loss of the Organization's tax-exempt status as a registered charity. Thus, according to section 150 of the ITA, the Organization must file a return of income with the Minister of National Revenue (the "Minister") that is in prescribed form and that contains prescribed information, without notice or demand for the return, for each taxation year of the Organization.
- 2) The Organization is no longer permitted to issue official donation receipts for income tax purposes. Gifts made to the Organization are not allowable as a tax credit to individual donors as provided by section 118.1(3) of the

REGISTERED MAIL

Mr. Moses Samet, President
La Société Kalev d'assistance bénévole enr.-
Kalev Free Loan & Aid Society Reg
1085 St. Alexandre #400
Montreal QC H2Z 1P4

BN 11915 3971 RR0001
File # 0504753

September 19, 2005

**Subject: Charity Income Tax Audit: La Société Kalev d'assistance bénévole
enr. - Kalev Free Loan & Aid Society Reg**

Dear Mr. Samet:

This letter is further to the audit of the books and records of account of the La Société Kalev d'assistance bénévole enr.- Kalev Free Loan & Aid Society Reg. (hereinafter, "Kalev") conducted by a representative of the Canada Revenue Agency (hereinafter, "CRA"). The audit related to the operations of Kalev for the fiscal period ended December 31, 2001.

The review has raised serious concerns about Kalev's compliance with certain provisions of the *Income Tax Act* (hereinafter, the "Act") and its Regulations. In order for a registered charity to retain its registration, it is required to comply with the provisions of the *Act* applicable to registered charities. If these provisions are not complied with by a particular registered charity, the Minister of National Revenue (hereinafter, the "Minister") may revoke its registration in the manner described in section 168(2) of the *Act*.

The balance of this letter describes how the Canada Revenue Agency considers that the organization contravened the *Act*.

By consulting with us first, a charity can avoid the need to further amend its objects. In addition, a charity that wants to undertake programs and activities that are different from those previously described to us, should make sure that they are within the scope of the charity's stated purposes. If the programs or activities differ from those we reviewed, they may not be charitable. We recommend that you check with us beforehand. If the charity actually undertakes programs that are not charitable, its registration can be revoked.

If a charity changes its name, purposes or the rules governing its operations, the governing documents must be revised and an official copy of the new documents must be forwarded to us. If the charity is incorporated, a photocopy of the amending documents displaying the stamp or other approval mark from the incorporating authority (federal or provincial) must be submitted. If the charity is not incorporated, a photocopy of the revised documents showing the date the documents came into effect and carrying the original signatures of two current directors/trustees of the charity must be submitted.

Under paragraph 168(1)(b) of the *Act*, the Minister, may by registered mail give notice to Kalev that he proposes to revoke its registration because it ceases to comply with the requirements of the *Act* related to its registration as such.

Inadequate lending practices and failure to demonstrate that loans were charitable

In order to meet the definition of a charitable organization under subsection 149.1(1) of the *Act*, a registered charity must devote all its resources to charitable activities carried on by itself or by an agent of the organization.

Furthermore, subsection 230(2) of the *Act* requires every registered charity to maintain adequate records and books of account at an address in Canada recorded with the Minister. This includes providing proper documentation to show that the organization's programs and activities further exclusively charitable purposes.

We have reviewed Kalev's lending practices. The audit revealed that Kalev could not provide us with adequate supporting documentation related to loans granted and it was unable to demonstrate that loans granted were charitable in nature.

As per Kalev's statement of activities & criteria, loans should be granted for specific purposes and to applicants who met Kalev's criteria. According to Kalev's representative, the potential applicants have to be needy. When someone wants to apply for an interest free loan, the person fills an application form. Kalev's statement of activities & criteria stipulates that all details would be verified by an accountant or by

The mere fact that an organization's Board of Directors, or the persons approving loans, may have had personal knowledge of the loan applicants does not constitute evidence that the loans were being made to relieve poverty. Personal knowledge cannot be a substitute for a properly applied and documented system of selection criteria that serves to prove that a charity is in fact relieving poverty in a manner consistent with the *Act*. This is further evidenced by the loans made by the organization.

Under paragraph 168(1)(d)(e) of the *Act*, the Minister may, by registered mail, give notice to Kaley that the Minister proposes to revoke its registration because it because it ceases to comply with the requirements of the *Act* related to its registration as such and it fails to comply with or contravenes any of sections 230 to 231.5 of the *Act*.

Failure to Control Foreign Activities and Funding Overseas

In order to meet the definition of a charitable organization under paragraph 149.1(1)(b) of the *Act*, a registered charity must devote all of its resources to charitable activities. The *Act* permits a registered charity to carry out its charitable purposes in two ways. First, it can fund other organizations, which are qualified donees as described in the subsection 149.1(1) of the *Act*; second, it can carry on its own charitable activities. In contrast to the relatively passive transfer of money or other resources involved in making contributions to qualified donees, carrying on one's own activities implies active participation on the part of the charity in a program or project that directly achieves a charitable purpose.

Disbursing funds to third parties who are not qualified donees (as defined by subsection 149.1(1) of the *Act*) is not considered as being a charitable activity. For purposes of the *Act*, when a registered charity merely transfers its resources to another entity (assuming the entity is a non-qualified donee), but fails to maintain effective direction and actual control over those resources, the result is the same as a gift to a non-qualified donee. Allowing a non-qualified donee to take complete control of the resources of a registered charity nullifies the purpose and intent of the *Act*.

The charity is allowed to have another organization or individual act on its behalf. In such a relationship however, the registered charity must be responsible in a direct, effectual, and constant manner for charitable activities to which its resources are being applied. The fact that the activities being undertaken by another organization may be consistent with the goals and objectives of the registered charity is insufficient to meet this operational test.

documentary evidence, that it has arranged for the conduct of certain specific activities on its behalf and not simply made an outright transfer of funds to a non-qualified donee. The charity must also be able to demonstrate to the CRA's satisfaction that it at all times maintains control and full accountability over the use of its monies transferred to the agent.

If a charity chooses to administer its work in this fashion, the conditions listed below must be met:

- The charity should establish some sort of current, formal, written declaration which would state in each case that the organization or individual to be funded in this manner will be carrying out certain stated activities which the charity wishes to see accomplished on its behalf during the term of the agreement;
- Each organization or individual so funded should provide some system of continuous and comprehensive documented reporting, including expense vouchers to the charity (on at least a quarterly or semi-annual basis) concerning its ongoing activities, which are carried out on behalf of the charity. Such written reports should be supplemented at least yearly by a financial report reflecting the use of funds transferred to the agent;
- The charity's funds should remain apart from those of its representative so that the charity's role in any particular project or endeavour is separately identifiable as its own charitable activity, and,
- Financial statements submitted in support of its annual Information Returns should provide a detailed breakdown of expenditures made in respect of its own charitable activities including those performed by its agents.

It is the CRA's view that this type of reporting mechanism is necessary for the charity to clearly demonstrate that it maintains an adequate level of control and accountability over the use of its funds. These reports would have to be kept with the charity's other records and books of account at the address recorded with the CRA.

By not implementing a written agency agreement, the charity's disbursements cannot be classified as its own charitable activities. Thus, these payments are viewed as disbursements to non-qualified donees.

provide an adequate audit trail of how the money reached the needy applicants in Jerusalem.

Kalev's agent received application forms from needy people who required its financial assistance. This form required the applicant to indicate: name, address, phone number, occupations, number of children, family monthly income and the applicant's signature. Kalev's agent had to approve applications before they reached the next step. After Kalev's agent approval, the applicant had to contact Kalev to obtain the final official approval. Minutes of phone conversations or written evidence between the agent and the charity were not kept. According to Kalev's representative, when the applications were approved, Kalev's agent disbursed the approved amount to the approved needy people and forwarded a list of its disbursements to Kalev.

Kalev could not provide written selection criteria and beneficiaries' complete files for aid given to the needy in Israel. Kalev could not also provide proof it had assessed the financial situation of the applicant. There were no documents supporting the beneficiaries' financial needs and/or copies of medical bills supporting the facts that a recipient received the same grant that other persons for a different level of income received. Kalev also could not provide us with copies of documents verifying that the funds advanced were actually used by the applicant as requested. Kalev did not keep sufficient documentation in order to prove how the decisions of awarding assistance to needy people were based.

When Kalev's agent distributed financial aid, he gave cash to people. There were no records of acknowledgement by the needy person to confirm that they received the money except for the signature of the applicant on the application forms.

Fund transfers to Israel were not always transferred to the transfer agent. Cheques totalling \$92,568 have been issued with the mention "cash" instead of being transferred to the transfer agents. Therefore, no beneficiaries' names were indicated to determine whom Kalev's funds were transferred to. Most of Kalev's disbursement consisted of cheques payable to "Universal Exchange", a money exchange office, in Montreal. The other cheques were payable to different individuals' names and sometimes copies of wire transfers documents were retained. According to Kalev's representative, funds were remitted to these people because they were traveling to Israel. We could not see proof of deposits into the agent's bank account to verify the receipt of the funds to the Agent. Kalev failed to demonstrate that Kalev's Agent kept a separate bank account intended for Kalev's activities in order to keep Kalev's fund segregated from its own monies.

\$5,000. Therefore, the donor could have indicated any amount and claimed an erroneous income tax deduction; and

- The receipts did not indicate Kalev's exact name and address as recorded with CRA. CRA had advised Kalev when it audited Kalev's fiscal period ending December 31, 1996 to correct this deficiency. Kalev failed to comply with the *Act* with this respect.

Regulation 3501(4) of the *Act* stipulates that an official receipts issued to replace an official receipt previously issued shall clearly show that it replaces the original receipt and, in addition to its own serial number, shall show the serial number of the receipt originally issued. Regulation 3501(5) requires that a spoiled official receipt form shall be marked "cancelled" and such form, together with the duplicate thereof, shall be retained by the registered organization or the other recipient of a gift as part of its records..

The audit revealed that receipts issued in replacement of lost receipts were not prepared correctly. Replacement receipts did not show the mention "this cancels and replaces receipt no. xxx". The receipt mentioned "Duplicate #" instead on the above notation and did not mention "cancelled" on the charity's copy of spoiled receipts.

Pursuant to paragraph 168(1)(d) of the *Act*, the Minister may, by registered mail, give notice to a registered charity that he proposes to revoke its registration because it issues an official donation receipt otherwise than in accordance with the *Act* and the Regulations or that contains false information.

Failure to maintain adequate Books and Records

Subsection 230(2) of the *Act* requires every registered charity to maintain adequate records and books of account at an address in Canada recorded with the Minister. The purpose of this requirement is to enable the charity to accurately provide CRA with the information required by the *Act* as well as enable CRA to verify the accuracy of reported information through conducting audits.

A charity is not meeting its requirement to maintain adequate books and records if it fails to exercise due care with respect to ensuring the accuracy thereof.

The audit revealed that Kalev did not maintain adequate books and records as required by the *Act*. The following deficiencies were noted in addition to the deficiencies noted in the above sections:

- Some deposit slips prepared by Kalev were not detailed enough to ensure an adequate verification of the donation deposits. The

For your reference, we have enclosed a copy of the relevant provisions of the *Act* concerning revocation of registration and the tax applicable to revoked charities as well as appeals against revocation.

If you do not agree with the facts outlined above, or if you wish to present any reasons why the Minister of National Revenue should not revoke the registration of La Société Kalev d'assistance bénévole enr. - Kalev Free Loan & Aid Society Reg in accordance with subsection 168(2) of the *Act*, you are invited to submit your representations, **within 30 days from the date of this letter**. Subsequent to this date, the Director General of the Charities Directorate will decide whether or not to proceed with the issuance of a notice of intention to revoke the registration of Kalev in the manner described in subsection 168(1) of the *Act*.

If you appoint a third party to represent you in this matter, please send us written authorization naming that individual and explicitly authorizing that individual to discuss your file with us.

Should you have any questions regarding these matters, I may be contacted at (613) 957-2212, or write to Charities Directorate, Compliance Section, 320 Queen Street, 7th Floor, Ottawa, Ontario, K1A 0L5.

Sincerely,


Holly Brant
Audit Advisor
Compliance Section
Charities Directorate

Enclosures